

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	
	:	
- against -	:	<u>ORDER</u>
	:	
JOAQUIN ARCHIVALDO GUZMAN	:	09-cr-0466 (BMC)
LOERA,	:	
	:	
Defendant.	:	
-----	X	

COGAN, District Judge.

This Order clarifies a ruling at sidebar on January 9, 2019, in which the Court discussed with the parties the use of evidence from one witness to impeach another. The Court stated that extrinsic evidence may not be used to show that someone was lying about an incident that is not the crime with which the defendant is charged.

That is not to say that extrinsic evidence cannot be used to attack the credibility of one witness by presenting evidence through another witness. Rather, it means that such evidence cannot be used for matters that are collateral.

A witness's bias is never collateral. But to have one witness testify to an earlier statement made by another witness, for the purpose of showing that the second witness has made inconsistent statements in the past, is collateral, unless that inconsistent statement goes to the first witness's bias or the defendant's guilt or innocence. Thus, defense counsel can introduce extrinsic evidence through a second witness to impeach a prior witness for bias, but defense

counsel cannot introduce extrinsic evidence through that second witness solely for the purpose of showing that the prior witness made an inconsistent statement.

SO ORDERED.

U.S.D.J.

Dated: Brooklyn, New York
January 11, 2019